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June 27, 2001

RECEIVED

JUN 28 2001

FCC MAIL ROOM

Magalie R. Salas, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: CC Docket No. 00-251
In the Matter of Petition of AT&T Communications of
Virginia, Inc., TCG Virginia, Inc., ACC National Telecom
Corp., MediaOne of Virginia and MediaOne
Telecommunications of Virginia, Inc. for Arbitration of an
Interconnection Agreement With Verizon Virginia, Inc.
Pursuant to Section 252(e)(5) of the Telecommunications
Act of 1996

Dear Ms. Salas:

Enclosed for filing in this proceeding are an original and twelve copies of AT&T's Motion to Dismiss Verizon Virginia's Objections to AT&T's First Set of Data Requests and to Compel Answers. A copy of this letter and the Motion is being served on Verizon Virginia, Inc. by overnight mail and by email.

Thank you for your consideration in this matter.

Sincerely yours,


Mark A. Keffer

cc: Service List

No. of Copies rec'd 074
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Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

JUN 28 2001

FCC MAIL ROOM

In the Matter of)
Petition of AT&T Communications)
of Virginia, Inc., Pursuant)
to Section 252(e)(5) of the)
Communications Act, for Preemption)
of the Jurisdiction of the Virginia)
State Corporation Commission)
Regarding Interconnection Disputes)
with Verizon Virginia, Inc.)

CC Docket No. 00-251

**MOTION OF
AT&T COMMUNICATIONS OF VIRGINIA, INC., TCG
VIRGINIA, INC., ACC NATIONAL TELECOM CORP.,
MEDIAONE OF VIRGINIA AND MEDIAONE TELECOMMUNICATIONS
OF VIRGINIA, INC. TO DISMISS VERIZON VIRGINIA, INC.'S OBJECTIONS
TO AT&T'S FIRST SET OF DATA REQUESTS AND TO COMPEL ANSWERS**

Verizon has refused to answer any questions in AT&T's first set of data requests that pertain to any matter outside of Virginia or to any Verizon entity other than Verizon Virginia, Inc. ("VZ"). To state the obvious, Verizon operates in a large number of states across a wide footprint. AT&T's questions inquire about whether Verizon is deploying UNEs and the facilities required to offer UNEs and interconnection in the same way, and in the same proportions, and under the same terms, conditions and procedures, in Virginia as in the other states in which Verizon operates. Verizon, however, has refused to respond to requests about conduct throughout the Verizon footprint, and has refused to provide any answers regarding the provision of advanced services by its affiliates, Verizon Advance Data Inc. ("VADI") and Verizon Advanced Data Virginia Inc.

(“VADVA”). These frivolous positions are nothing more than a waste of time, energy and resources, which make a mockery of the discovery process. Verizon Virginia, Inc. should be compelled to provide complete and prompt answers to the data requests addressed below.

AT&T Communications of Virginia, Inc., TCG Virginia, Inc. ACC National Telecom Corp., Mediaone of Virginia and Mediaone Telecommunications of Virginia, Inc. (collectively known as “AT&T”) filed its first set of Data Requests, with a total of 54 questions. Initially, Verizon Virginia, Inc. agreed to provide an answer to *only a single* question (number one) – and that was a non-substantive data request requesting copies of all data requests and responses received from and sent to other parties – and objected to the remaining 53 data requests.¹ After fifteen days, Verizon provided answers to many of the questions, but notably refused to answer any questions regarding policies and procedures outside of Virginia and any questions regarding VADI or the provision of advanced services.

The standard for discovery is broad. In fact, the Rules of Practice and Procedure for the Virginia State Corporation Commission allow parties to inquire into matters which may not, on their face, be relevant provided the request is likely to lead to the production of relevant information:

¹ In initially objecting to the 53 data requests, Verizon generally parroted “general objections,” which, for the most part, raise shopworn (and inappropriate) arguments about relevance and scope. In only a limited number of instances did Verizon add an additional sentence objecting to a particular request, but in no instance did those objections raise a legitimate barrier to Verizon’s provision of the requested information. Despite this practice of blanket objections to data requests, Verizon did answer some of the data requests within the 15 day time frame established by the Commission.

Interrogatories to parties or requests for production of documents and things. Interrogatories may relate to any matter, not privileged, which is relevant to the subject matter involved, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of evidentiary value. It is not necessarily grounds for objection that the information sought will be inadmissible at the hearing if such information appears reasonably calculated to lead to the discovery of admissible evidence.

5VAC5-10-480. The Federal Rules of Civil Procedure contain a similarly broad standard. *See* Fed. R. CIV. P. 26(b).² Given the well-established standard for the broad scope of discovery, Verizon should not be permitted to withhold the information requested.

Verizon's positions prolong the litigation, frustrate its competitors with additional litigation burdens, extend every process and compound the competition's cost of entry. Verizon has not provided a meaningful objection to these requests. Verizon has not responded meaningfully in good faith negotiations regarding its objections.³ Verizon has simply stonewalled, paying only lip service to the Commission's procedural requirements that the parties engage in good faith negotiations regarding discovery disputes. As demonstrated below, Verizon's objections are meritless and should be denied. Verizon should be ordered to promptly provide substantive responses to all data requests.

² Rule 26(b), Discovery Scope and Limits, reads:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. The information sought need not be admissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

³ Counsel for AT&T and for Verizon have traded voicemails and emails several times regarding these issues, most recently on June 27, 2001. In these messages, Verizon has simply confirmed its position: It will not answer questions regarding policies and procedures outside Virginia and it will not answer questions regarding advanced services or its affiliates, VADI and VADVA.

I. VZ's Refusal To Provide Responses Regarding Policies And Procedures Outside Of Virginia Withholds Important Information From This Proceeding And Contradicts This Commission's Stated Intent To Include And Review Information From Other Jurisdictions.

VZ objects to the requests that seek information about Verizon activities outside of Virginia. This objection should be rejected out of hand. This Commission has already established the relevance of discovery into matters in other jurisdictions by permitting parties to identify data responses submitted in other jurisdictions.⁴ This ruling arose from the status conference held with the FCC where the CLECs and Verizon agreed to identify discovery responses that they wished to use from other jurisdictions.

Verizon also recognizes the utility of information from other jurisdictions. Verizon and the CLECs are negotiating an agreement to import the New York Performance Assurance Plan into Virginia. This fact highlights Verizon's own acknowledgment of the utility and relevance of information from other jurisdictions.

Finally, to the extent that Verizon has, for example, different policies and procedures in jurisdictions other than Virginia, that information is relevant to the adequacy of existing and/or proposed policies and procedures that Verizon offers in Virginia. For example, if Verizon or its affiliates have collocated DSLAMs in its central offices in other jurisdictions, but not in Virginia, the Commission and the parties would need to explore why Verizon or its affiliates have instituted policies and procedures in Virginia that are different from those instituted in other Verizon states. Without full and complete answers regarding Verizon's practices and procedures throughout their region,

⁴ See Letter Ruling of Dorothy Atwood, FCC, 3/27/2001 at 2.

neither AT&T nor this Commission can fully determine the propriety of Verizon's practices within Virginia.⁵

Verizon's objection to providing information for states other than Virginia is unfounded, unproductive, and contradictory to the stated preference of this Commission. Verizon should be required to fully respond to all questions seeking information about Verizon's policies and procedures throughout its footprint, not simply in Virginia.

II. In Refusing To Provide Responses Regarding Advanced Services And Its Advanced Services Affiliates, Verizon Hides Behind A Thin Veil. These Specious Objections Should Be Rejected And Verizon Should Be Required to Answer These Questions Fully And Promptly.

Verizon has refused to provide answers to requests seeking information about the deployment of advanced services equipment and the provision of advanced services in Virginia. In so doing, Verizon hides behind the thin corporate veil between Verizon and VADI/VADVA. By Verizon's own actions, that veil has been pierced. Verizon should be required to respond fully to all requests regarding the deployment of advanced services equipment and the provision of advanced services.

Verizon was originally required as part of the merger conditions to provide DSL and other advanced services through a separate affiliate. In compliance with that requirement, Verizon established Verizon Advanced Data Inc. and Verizon Advanced Data Virginia, Inc. Given those separate affiliates, Verizon responds to questions about the deployment of advanced services equipment and the provision of DSL service by

⁵ In an email dated June 27, 2001, Verizon stood firm in its refusal to provide evidence of Verizon's activities outside of Virginia, relying on an uncited Virginia State Corporation Commission "finding" excluding evidence from other jurisdictions during the hearings regarding the merger of GTE and Bell Atlantic. While it is hard to refute an uncited "finding," it is not hard to see that this "finding" is contrary to the posture of this case, in which all parties, including Verizon, have agreed that information from other Verizon jurisdictions is, in fact, useful, as demonstrated above. Verizon's objection should be rejected.

blithely stating that “Verizon Virginia” does not deploy advanced services equipment and does not provide DSL service, when in fact Verizon, through VADVA, does deploy advanced services equipment and does provide DSL service. These blithe attempts to evade the questions should be rejected.

AT&T believes that both Verizon Virginia, Inc. and Verizon Virginia Advanced Data Virginia, Inc. are wholly owned (either directly or indirectly) subsidiaries of Verizon Communications, Inc. Moreover, both Verizon Virginia, Inc. and Verizon Virginia Advanced Data Virginia, Inc. are incorporated under Virginia law, and both have received certification to operate as public utilities from the State Corporation Commission. Assertions by Verizon Virginia, Inc. that it is “separate” from Verizon Virginia Advanced Data Virginia, Inc. are irrelevant and disingenuous. Use of tactics pinned on technicalities serve merely to burden the parties and the Commission with unnecessary legal wrangling, instead of enabling them to seek facts on which the parties can build their positions and on which the Commission can make informed determinations.

Two facts demonstrate that the thin corporate veil separating Verizon from VADI and VADVA has already been pierced. First, and most notably, Verizon is affirmatively seeking authority from this Commission to fold VADI and VADVA back into Verizon. Verizon has filed with this Commission a request that the FCC allow Verizon to re-integrate its data affiliate into its ILEC entity.⁶ By doing so, Verizon also seeks authority to: (1) buy, install, and test central office equipment — and presumably, any remote terminal electronics — that it intends to use as part of its next generation loop architecture plans; and (2) provide retail DSL service over next generation digital loop

carrier ("NGDLC") loops. Since, under Verizon's own timetable the re-integration of its data affiliates will occur before a result is expected in this proceeding – and in all events the data affiliates will be folded into Verizon for most, if not all, of the term of the agreement being arbitrated --, Verizon should be required to respond to requests regarding the deployment of advanced services equipment and the provision of DSL service in full.

Second, even if Verizon had not requested the re-integration of its advanced data affiliates, the D.C. Circuit held in the *ASCENT* decision that Verizon cannot hide behind a separate data affiliate for the purposes of implementing its obligations under section 251(c), it is imperative that Verizon be directed to respond on these important competitive issues.⁷

A. Verizon's Attempts To Shield Its Network Development Plans Regarding NGDLC Should Not Be Countenanced.

Verizon further complicates this issue by claiming that it is not providing DSL services over next generation digital loop carrier ("NGDLC") architecture. The equipment deployed, regardless of which Verizon entity deploys or uses it enables *some* Verizon-controlled entity to provide high-speed DSL services. Verizon's statements that "VZ-VA" is not deploying such equipment is beside the point. To the extent that Verizon or any of its affiliated entities is deploying advanced services equipment in Verizon central office space, they cannot be allowed to monopolize the use of the limited available space. Moreover, as AT&T has shown, NGDLC equipment, including for example line cards, must be available for use by all DSL competitors, otherwise only Verizon will be in a position to offer such services, and competition for advanced

⁶ See Letter from Verizon to the FCC dated April 26, 2000, attached hereto as Exhibit 1.

services will be thwarted. There is no doubt that Verizon's next-generation loop architecture provides Verizon and its affiliates with an efficient and technically feasible means of allowing both voice and data services to be carried over the same loop; there is also no doubt that it is technically feasible to enable all carriers access to such equipment so that consumers may benefit from competition for advanced services. Unless Verizon is required to respond to AT&T's discovery requests about its current deployment and future plans for NGDLC, neither AT&T nor the Commission will be able to determine whether the interconnection agreement being arbitrated here will permit AT&T (and other CLECs) nondiscriminatory access to Verizon's network elements.

Moreover, competitors will only be able to provide both voice and data services over the same loop in a pro-competitive manner if Verizon is required to comply with its nondiscrimination obligations under the Telecommunications Act as well as the Commission's implementing rules and orders. As the D C Circuit recognized, Verizon cannot be permitted to hide behind its data affiliates and avoid its obligation under section 251(c). This includes Verizon's duty to provide new entrants with unbundled access to NGDLC loops as unbundled network elements at cost-based rates. Given the magnitude and significance of Verizon's plans to redesign its network,⁸ there is every reason to believe that Verizon will attempt to extend its monopoly control over local telephony to advanced services by operating and controlling access to next-generation networks so that only Verizon will be able to compete effectively through use of this architecture.

⁷ *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001).

⁸ See June 11, 2001 statement to the CIBC World Markets Annual Investor Conference, by Verizon's co-CEO and President, Mr. Charles Lee boasting that Verizon plans to have 1.2 to 1.3 million DSL subscribers by the end of 2001, available at <http://www.investor.verizon.com>.

These concerns are not speculative. Verizon and other incumbents have argued that they should be entitled to reserve the use of next generation loop facilities exclusively to themselves and to avoid any obligation to unbundle them as network elements at cost-based pricing. This is a transparent attempt to control the pace at which competitors may introduce or expand their own advanced service networks and their ability to serve customers.

The Commission recently came to this very conclusion in its *Line Sharing Reconsideration Order* (at ¶ 11), holding that competitive LECs that participate in line sharing “must have the option to access [a fiber-fed] loop at either [the remote terminal or the central office], not the one that the incumbent chooses as a result of network upgrades entirely under its own control.” Critically, the Commission (at ¶ 13) held that “it would be inconsistent with the intent of the *Line Sharing Order* and the statutory goals behind sections 706 and 251 of the 1996 Act to permit increased deployment of fiber-based networks by incumbent LECs to unduly inhibit the competitive provision of xDSL services.” AT&T and other new entrants seek the same rights when they engage in line splitting.

AT&T’s data requests regarding NGDLC seek nothing more than information needed to insure that Verizon is complying with its obligation to provide non-discriminatory access to its NGDLC for the provision of voice and data services. The Commission should therefore compel Verizon to respond in full to each of AT&T’s data requests on this subject. Without such information, AT&T is hampered in showing the Commission why its proposed policies, practices and contract language should be adopted.

III. Grounds For Motion To Compel A Response To Each Of AT&T's Data Requests

AT&T provides a response to the Verizon's objections and/or incomplete responses. Included is a recital of the data request and VZ's objection or insufficient answer for the Commission's ease in reviewing the parties' arguments.

AT&T 1-2 Please state, by quarter (from 3Q99 to the present), the number of loops used for retail DSL customers *[sic]* services provided by Verizon (or any Verizon affiliate) in Virginia. Please state your answers separately for former Bell Atlantic and former GTE entities.

AT&T 1-2.a. Please provide the percentage of xDSL (including 2 wire ADSL and 4 wire HDSL) loops for which CLECs requested manual loop qualification during the past 6 months and any support used to develop this response.

AT&T 1-2.b. Please indicate the number of xDSL loops provisioned in the last 6 months that had cooperative testing between Verizon Virginia, Inc. and CLECs other than a Verizon division or affiliate. Please provide the absolute number of, and percentage of xDSL loops (including 2 wire ADSL and 4 wire HDSL) that CLECs requested cooperative testing which had a trouble report filed within 30 days of provisioning.

OBJECTION:

See General Objections

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it does not provide DSL services.

GROUND FOR MOTION TO COMPEL:

As noted in Section II, above, Verizon provides DSL services in Virginia through its separate data affiliates VADI and VADVA. Given Verizon's own request to re-integrate its data affiliates into its ILEC entity, Verizon should be required to respond to this request in full.

AT&T 1-3 Please state, by quarter (from 3Q99 to the present) and by State within the Verizon footprint [footnote omitted], except for Virginia, the number of loops used for retail DSL customers services provided by Verizon (or any Verizon affiliate). Please state your answers separately for former Bell Atlantic and former GTE entities.

AT&T 1-3.a. Please provide the percentage of xDSL (including 2 wire ADSL and 4 wire HDSL) loops for which CLECs requested manual loop qualification during the past 6 months and any support used to develop this response.

AT&T 1-3.b. Please indicate the number of xDSL loops provisioned in the last 6 months that had cooperative testing between Verizon Virginia, Inc. and CLECs other than a Verizon division or affiliate. Please provide the absolute number of, and percentage of xDSL loops (including 2 wire ADSL and 4 wire HDSL) that CLECs requested cooperative testing which had a trouble report filed within 30 days of provisioning.

VZ OBJECTION:

See General Objections.

VZ REPLY:

Based on its previously filed Objections, Verizon Virginia will not respond to this Request.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon's practices outside of Virginia and (2) it requests information regarding the deployment of advanced services equipment.

As demonstrated in Sections I and II, above, these objections are without merit.

AT&T 1-5. Please state, by quarter (from 3Q99 to the present) and by State within the Verizon footprint, except for Virginia, the number of loops over which Verizon supported line sharing, regardless of the provider of DSL capabilities, in the high frequency spectrum of the loop. Please state your answers separately for former Bell Atlantic and former GTE entities.

VZ OBJECTION:
See General Objections.

VZ REPLY:

Based on its previously filed Objections, Verizon Virginia will not respond to this Request.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon's practices outside of Virginia and (2) it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections I and II, above, these objections are without merit.

AT&T 1-7. Please state, by quarter (from 3Q99 to the present) and by State within the Verizon footprint, except for Virginia, the number of DSL capable loops Verizon provisioned for DSL service providers (regardless of whether or not the provider is or was affiliated with Verizon) for which Verizon did not provide local service using the low frequency spectrum of the same loop. Also specify how Verizon determined that the loop provided was DSL capable (e.g., based on the NCNCI code supplied by the CLEC on its order for the loop).

VZ OBJECTION:
See General Objections.

VZ REPLY:

Based on its previously filed Objections, Verizon Virginia will not respond to this Request.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon's practices outside of Virginia

and (2) it requests information regarding the deployment of advanced services equipment.

As demonstrated in Sections I and II, above, these objections are without merit.

AT&T 1-8. Please state, by quarter (from 3Q99 to the present), the number and percentage of Verizon central offices in Virginia in which Verizon (or any Verizon affiliate) has deployed advanced services equipment, including but not limited to DSLAMs and splitters.

VZ OBJECTION:

See General Objections.

VZ REPLY:

Subject to its previously filed objections and without waiver of same, Verizon Virginia neither owns nor deploys advanced services equipment.

GROUND FOR MOTION TO COMPEL:

As noted in Section II, above, Verizon deploys advanced services equipment in Virginia through its separate data affiliates VADI and VADVA. Given Verizon's own request to re-integrate its data affiliates into its ILEC entity, Verizon should be required to respond to this request in full.

AT&T 1-9. Please state, by quarter (from 3Q99 to the present) and by State within the Verizon footprint, except for Virginia, the number and percentage of Verizon central offices in which Verizon (or any Verizon affiliate) has deployed advanced services equipment, including but not limited to DSLAMs and splitters.

VZ OBJECTION:

See General Objections.

VZ REPLY:

Based on its previously filed Objections, Verizon Virginia will not respond to this Request.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon's practices outside of Virginia and (2) it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections I and II, above, these objections are without merit.

AT&T 1-11. Please state, by quarter (from 3Q99 to the present) and by State within the Verizon footprint, except for Virginia, the number and percentage of collocations established by competitive carriers that Verizon has been informed or has reason to believe contain equipment, including but not limited to DSLAMs and splitters, that a carrier could employ to provide advanced service capabilities, including any form of DSL service. State the basis by which this determination was made, e.g., the NCNCI code associated with one or more loops connecting to the collocation, the disclosure of a PSD for equipment with the collocation. If some other means was used to make such determination, please describe.

VZ OBJECTION:

See General Objections.

VZ REPLY:

Based on its previously filed Objections, Verizon Virginia will not respond to this Request.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon's practices outside of Virginia and (2) it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections I and II, above, these objections are without merit.

AT&T 1-13. Please provide a histogram for the Verizon footprint showing the average loop length for each area. The abscissa of the histogram should be the electrical length of the loops connecting a Central Office to customer premises broken in 1000 foot increments of electrical length, starting with 0 and incremented by 1000 feet (electrical length)

until the longest loop length is surpassed. The ordinate should be the cumulative proportion of 2 wire loops that are equal to or less than the electrical length indicated on the x axis.

VZ OBJECTION:

See Verizon's Objection to Request No. 12. [Verizon's Objection to Request No. 12 states, "See General Objections. Verizon further objects to this Request on the grounds that it does not ask Verizon to produce a document but, rather, to prepare one. Thus, it is not a permissible discovery request."]

VZ REPLY:

Based on its previously filed Objections, Verizon Virginia will not respond to this Request.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request because it requests information regarding Verizon's practices outside of Virginia. As demonstrated in Section I, above, this objection is without merit. Moreover, Verizon's objection that this question impermissibly requests that Verizon prepare a document is rendered moot by Verizon's response to AT&T 1-12. In response to that request, Verizon provided average loop lengths for each density cell. AT&T will accept the same information for the other Verizon jurisdictions as responsive to this request.

AT&T 1-16. If Verizon re-integrates its data affiliate(s) into its incumbent local exchange entity, will the operations of its former affiliate be subject to the interconnection agreements being arbitrated here? If not, how will the data affiliate(s) be made subject to these agreements?

VZ OBJECTION:

See General Objections. Verizon further objects to this Request on the grounds that it calls for speculation.

VZ REPLY:

Based on its previously filed Objections, Verizon Virginia will not respond to this Request.

GROUND FOR MOTION TO COMPEL:

As discussed in Section II above, Verizon has filed with this Commission a request that the FCC allow Verizon to re-integrate its data affiliate into its ILEC entity. That fact alone demonstrates that this request is not “speculative.” It requests information that Verizon has surely considered in light of its filing to the FCC. Verizon should be compelled to respond fully and promptly to this request.

AT&T 1-17. Please state whether Verizon asserts that the DSLAMs it or its affiliates have employed integrated splitters. If so, state whether the sole basis for this contention is that such arrangements use connectorized cables to connect splitters located in one part of a frame to DSLAM functionality located in a separate part of the frame. If there are additional bases for this contention, describe the nature of the integration that exists and provide technical literature from the supplier that describes the equipment employed.

VZ OBJECTIONS:

See General Objections

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it neither owns nor deploys DSLAMs.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request because it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections II, above, this objection is without merit.

AT&T 1-18. Under what contract(s), tariff(s) or other arrangement(s) may a competitive LEC purchase Verizon advanced services for resale?

VZ OBJECTIONS:
See General Objections

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it does not provide advanced services.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request because it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections II, above, this objection is without merit.

AT&T 1-19. Separately state, for each of the following service delivery configurations that may be used for voice service, how a competitive LEC may add a resold Verizon advanced service to the high frequency spectrum of the same loop employed to provide the voice service: (a) UNE-P; (b) UNE Loop; (c) resale of Verizon local service?

AT&T 1-19.a For any service configuration for which Verizon states that a CLEC may add a resold Verizon advanced service to the high frequency spectrum of the loop, describe the procedures that the CLEC must follow to place such orders and when and how the procedures were first made available.

AT&T 1-19.b For any service configuration for which Verizon states that the CLEC may not add a resold Verizon advanced service to the high frequency spectrum of the loop, please state if Verizon contends that adding the capability is technically infeasible and, if so, explain why. If Verizon makes no assertion of technical infeasibility, please explain why Verizon does not make such configuration available.

VZ OBJECTION:
See General Objections.

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it does not provide advanced services.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request because it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections II, above, this objection is without merit.

AT&T 1-20. Has Verizon considered deploying or actually deployed a next generation digital loop carrier (NGDLC) architecture [footnote omitted] in Virginia? If any planning has occurred, provide any documents that draw conclusions or make recommendations regarding whether or not Verizon should move forward with such deployment and the implications of making the deploying including, but not limited to, the opportunity to reduce operating cost, future capital investment and/or increased revenue potential. To the extent that it is not apparent in the foregoing documentation, identify the equipment supplier(s) and equipment model(s) that were considered in the evaluation, particularly with respect to any electronics that might have been considered for deployment in remote terminals. If Verizon has deployed NGDLC loops anywhere in Virginia, please identify the number of customer distribution facility pairs connected to this architecture, the number of remote terminals (“RTs”) containing equipment with the enabling electronics and the number of different central offices to which these RTs are connected.

VZ OBJECTION:

See General Objections. Verizon further objects to this Request on the grounds that the phrase “Has Verizon considered” renders this Request vague and unanswerable. Moreover, Verizon objects to this Request on the grounds that AT&T’s suggested definition of “NGDLC” (see AT&T’s First Set of Data Requests at 11-12, footnotes 2 and 3) is overly broad and vague.

AT&T 1-20.a. Please provide all network planning documents, whether in “draft” or in final form, which relate in any way to the provision of DSL services to customers being served by loops constructed of fiber optic cable and/or digital loop carrier.

VZ OBJECTION:

See Verizon’s Objection to Request No. 20.

VZ RESPONSE:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia responds as follows:

Based on AT&T’s definition of next generation digital loop carrier (NGDLC) architecture which Verizon understands to be defined so broadly as to include “any combination of equipment and transmission facilities, where some or all of

the electronics necessary to support high speed data and voice communications over a single copper distribution facility connecting to the customer's premises are deployed in a location between the service central office and the customer's premises[,] and which Verizon interprets as including the electronics and facilities required to support integrated voice and high speed data over a single copper pair, Verizon Virginia has not deployed NGDLC loops of this type and cannot identify any number of connected distribution pairs or quantity of remote terminals (RTs) and central offices equipped with enabling electronics for integrated voice/data operation.

For new NGDLC deployments triggered by POTS service requirements, Verizon has recently developed guidelines to allow the pre-configuration and pre-cabling of remote terminals for a potential offering of a wholesale DSL at the RT service in the future. These guidelines were included in "Litespan-2000 Application Guidelines" issued in November 2000.

- (a) A list of documents related to pre-configuration of remote terminals for a potential wholesale DSL at the RT future offering is referenced above.

GROUND'S FOR MOTION TO COMPEL

Verizon's response indicates that it does not currently provide NGDLC loops "of this type." To the extent, however, that Verizon does currently use NGDLC loops to provide voice service, Verizon should be compelled to reply to this question more completely. It is a simple matter to reconfigure NGDLC loops used for voice to also provide data service. Verizon should not be permitted to hide behind its current services which are apparently limited to voice. Verizon should be required to answer this question fully and provide a complete response regarding its NGDLC network architecture and deployment plans. Moreover, AT&T is entitled to information about Verizon's plans for implementing NGDLC technology because such technology will be in place during the term of the agreement being arbitrated. AT&T should not be forced to wait until Verizon implements its plans (likely in a discriminatory manner) before it may be the subject of an arbitration award.

AT&T 1-21. Has Verizon considered deploying or actually deployed a next generation digital loop carrier (NGDLC) architecture [footnote omitted] anywhere in Verizon footprint, except for Virginia? If any planning has occurred, provide any documents that draw conclusions or make recommendations regarding whether or not Verizon should move forward with such deployment and the implications of making the deploying including, but not limited to, the opportunity to reduce operating cost, future capital investment and/or increased revenue potential. To the extent that it is not apparent in the foregoing documentation, identify the equipment supplier(s) and equipment model(s) that were considered in the evaluation, particularly with respect to any electronics that might have been considered for deployment in remote terminals. If Verizon has deployed NGDLC loops anywhere within the Verizon footprint, except for Virginia, please identify the number of customer distribution facility pairs connected to this architecture, the number of remote terminals (“RTs”) containing equipment with the enabling electronics and the number of different central offices to which these RTs are connected.

VZ OBJECTION: See Verizon’s Objection to Request No. 20.

21.a. Please provide all network planning documents, whether in “draft” or in final form, which relate in any way to the provision of DSL services to customers being served by loops constructed of fiber optic cable and/or digital loop carrier.

VZ OBJECTION:
See Verizon’s Objection to Request No. 20.

VZ REPLY:
See Verizon’s Reply to AT&T 1-20.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon’s practices outside of Virginia and (2) it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections I and II, above, these objections are without merit.

AT&T 1-22. To the extent that Verizon has considered or actually deployed NGDLC loops: (a) what is the electrical length of the 2 wire loops that would otherwise service the customer premises (if deployed); (b) what is the assumed electrical length of the 2 wire loops that are targeted to

have an alternative NGDLC loop architecture available; (c) what is the length of the copper distribution for customers using the NGDLC loop architecture (if deployed); and (d) what is the length of the copper distribution that Verizon assumed within its planning process?

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

VZ REPLY:

See Verizon's Reply to AT&T 1-20.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon's practices outside of Virginia and (2) it requests information regarding the deployment of advanced services equipment.

As demonstrated in Sections I and II, above, these objections are without merit.

AT&T 1-23. If not provided in the response to the preceding, please provide a complete description of the equipment that will be deployed (including manufacturer-provided specification sheet), the facilities that will be employed and the manner in which the facilities and equipment will be interconnected to provide a communications path between the customer's premises and the central office. This description should include but not be limited to the following:

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

(a) Between the RT and the central office, does Verizon plan to commingle communications using the low frequency spectrum of a customer's "loop" on the same feeder facilities as those carrying communications using the high frequency spectrum of a customer's loop? If not, will the customer's communications be connected to one and only one central office to gain access to Verizon's circuit switched network and to one and only one central office to gain access to Verizon's high speed data network? If so, the two facilities from the RT terminate on the same central office? If not, why not?

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

(b) If such commingling is not currently planned, does Verizon believe that it is technically feasible or infeasible for a single feeder facility to commingle the high and low frequency traffic and does Verizon's chosen/planned equipment supplier take the same position?

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

(c) What bandwidth capacity has Verizon considered for deployment or actually deployed for the fiber feeder facility that connects the RT to the central office? Does Verizon believe that it is technically feasible to expand the bandwidth capacity of such feeder facilities? If so, what capacities does Verizon believe can be achieved through upgrade/modification to deployed electronics?

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

(d) Does Verizon believe that it is feasible to engineer the capacity of feeder facilities so that multiple carriers can have nondiscriminatory access to the capacity in those facilities? If so, on what does Verizon base this assertion?

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

(e) Other than by connecting at the central office, the RT or at the customer premises, is there any other technically feasible point that Verizon contends a competitor could gain access to the communications of its own retail customers without also gaining access to communications destined to the network(s) of other service providers? If so, identify all such point and describe how the carrier would make such a connection.

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

(f) Under Verizon's current planning assumptions for the NGDLC loop architecture, how would a Verizon retail customer served over that architecture be physically connected to an Internet Service Provider?

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

VZ REPLY:

See Verizon's Reply to AT&T 1-20.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon's practices outside of Virginia and (2) it requests information regarding the deployment of advanced services equipment.

As demonstrated in Sections I and II, above, these objections are without merit.

25. Please provide copies of all briefings or disclosures Verizon provided to the financial community regarding the financial implications of deploying NGDLC architecture in the Verizon footprint.

VZ OBJECTION:

See General Objections.

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it has not provided or disclosed to the financial community any specific financial implications of deploying NGDLC within its footprint.

GROUND FOR MOTION TO COMPEL:

While "Verizon Virginia" may not have made any disclosures to the financial community, Verizon may very well have done so. In fact, at Verizon's website, there is an entire section devoted to information for investors regarding company profile, stock information, news and events, etc. See <http://investor.verizon.com/>. As demonstrated in Sections I and II, above, Verizon Virginia should not be permitted to hide behind the corporate veil when it comes to its network plans.

26. Has Verizon performed or otherwise obtained any analyses that assess the loop lengths for which NGDLC deployment is cost effective? If so, please provide copies.

VZ OBJECTION:

See General Objections.

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia responds as follows:

Verizon's deploys DLC based on POTS considerations. This is not related to the "NGDLC" loop architecture referenced in Verizon's Reply to AT&T 1-20.

GROUND FOR MOTION TO COMPEL:

Verizon's response is a non sequitur. AT&T asked whether Verizon performed analyses regarding the cost-effectiveness of NGDLC deployment. Verizon responded that it deploys DLC based on POTS considerations. This is not an answer to the question posed. Quite simply, Verizon should be required to respond to the question posed.

AT&T 1-27. Does Verizon have plans to use NGDLC architecture in connection with the deployment of fiber distribution facilities to or close to the retail customer premises (e.g., "fiber to the curb", "fiber to the home" or "fiber to the neighborhood")? If so, please state such plans for the Verizon footprint.

VZ OBJECTION:

See General Objections.

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it has no plans to use the "NGDLC" architecture, as defined in AT&T's Request No. 20, in connection with fiber distribution facilities.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request because it requests information regarding the deployment of advanced services equipment and the provision of DSL. As demonstrated in Section II, above, this objection is without merit. Verizon is again merely attempting to hide behind the shield

of VADI and VADVA. Verizon's blithe attempts should be rejected. Verizon should be required to respond fully to the question.

AT&T 1-35. Please state Verizon's definition of what constitutes a packet switch; whether Verizon has deployed any equipment that conforms to this definition of packet switching within any Central Office or remote terminal space owned or controlled by Verizon; and whether there is any Central Office or remote terminal space currently reserved for Verizon (or an affiliate) so that it may deploy such equipment. In addition, please state whether Verizon will permit AT&T to collocate packet switches in its collocations on Verizon's premises. If not, state Verizon's basis for refusing to permit such collocation.

VZ OBJECTION:

See Verizon's Objection to Request No. 30

VZ REPLY:

Based on its previously filed Objections, and the Commission's decision in the UNE Remand Order not to require unbundled packet switching, Verizon Virginia will not respond to this Request.

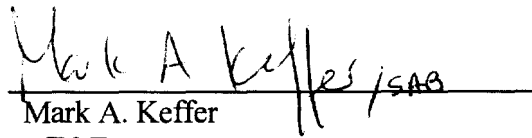
GROUND FOR MOTION TO COMPEL:

Verizon's own positions in this case acknowledge the ILECs' requirement to provide unbundled packet switching. *See, e.g.,* Verizon Answer to AT&T Petition, Exhibit A, at 140 n 220 ("The Commission required ILECs to provide requesting carriers with access to unbundled packet switching only where the ILEC has placed its DSLAM in a remote terminal. *UNE Remand Order* at ¶ 313."). On the basis of this admission alone, Verizon should be required to respond to this data request and inform AT&T, at a minimum, whether Verizon (in any of its many guises) has placed DSLAMs in remote terminals. Any claim that VADI or VADVA, not Verizon, has placed its DSLAMs in remote terminals should be rejected. *See* Section II, above. A full response AT&T's data request may very well lead to additional relevant information.

V. Conclusion.

AT&T has shown that VZ has attempted to hide behind specious objections and woefully inadequate responses rather than attempt to respond in any meaningful sense. AT&T has tried to get to the root cause of VZ's objections and AT&T's efforts at good faith negotiations have been less than productive. Such practice burns limited time and resources, it diverts AT&T from pursuing more productive tasks, and it burdens the Commission with having to resolve such disputes. The Commission should end VZ's "standard operating procedure" of stonewalling by compelling VZ to respond fully to all data requests addressed here.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark A. Keffer / SAA", is written over a horizontal line.

Mark A. Keffer

AT&T

3033 Chain Bridge Road

Oakton, Virginia 22185

703 691-6046 (voice)

703 691-6093 (fax)

EX PARTE OR LATE FILED

ORIGINAL



Gordon R. Evans
Vice President
Federal Regulatory

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May 1, 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

1300 I Street, NW, Suite 400 West
Washington, DC 20005

Phone 202 515-2527
Pager 888 802-1089
Fax 202 336-7922
gordon.r.evans@verizon.com

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

EX PARTE

RE: Bell Atlantic/GTE Merger Order
(CC Docket No. 98-184)

Dear Ms. Salas:

The attached letter and declaration should be placed in the record of the above captioned proceeding.

Pursuant to Section 1.1206(a)(1) of the Commission's rules, an original and one copy of this letter are being submitted to the Office of the Secretary. Please associate this notification with the record in the proceeding indicated above.

If there are any questions regarding this matter, please call me at 202 515-2527.

Sincerely,

A handwritten signature in dark ink, appearing to read "G. Evans", written over a horizontal line.

Gordon R. Evans

Attachment

No. of Copies rec'd 0+1
List A B C D E

Gordon R. Evans
Vice President
Federal Regulatory

April 26, 2001



1300 I Street, NW, Suite 400 West
Washington, DC 20005

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Ms. Dorothy Attwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th St., S.W.
Room 5-C450
Washington, D.C. 20554

Dear Ms. Attwood:

I am writing to seek the Commission's concurrence to accelerate the Verizon incumbent telephone companies' right to provide advanced services directly, without using the separate advanced services affiliate that was required by the Bell Atlantic-GTE merger order.¹ The separate affiliate requirement will automatically terminate no later than nine months after the D.C. Circuit's decision in *ASCENT v. FCC*, and it is consistent with the public interest to lift this restriction immediately.

The merger conditions themselves already specify the requirements that will apply upon the termination of the separate affiliate requirement, and eliminating the separate affiliate requirement now will serve the public interest by allowing Verizon to bring these services to the public more quickly and without the additional costs that a separate affiliate necessarily entails. Moreover, because the conditions themselves already specify the requirements that apply upon the termination of the separate affiliate requirement, no competitor will be harmed by allowing Verizon to provide these services free of this requirement now.

First, if the Commission does not act, Verizon will be required to start to turn away new customers in New Jersey before the end of the automatic sunset period. The New Jersey Board of Public Utilities has not approved Verizon New Jersey's application to transfer advanced services assets to the separate affiliate. Now that the separate affiliate requirement will terminate, there would seem to be no reason for the Board to divert resources from other pressing matters to approve that transfer. Thus, Verizon New Jersey is continuing to provide advanced services (as permitted), but it may not purchase any new advanced services equipment under the terms of the Merger Conditions. As a result, it is already out of capacity

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GTE Corp., 15 FCC Rcd 14032, App. D (2000) ("Merger Conditions").

in two central offices, and expects to be out of capacity — and unable to fill customer orders — in 70 more in the coming months.²

Second, the separate affiliate requirement is hindering Verizon's deployment of new technologies and next generation networks. As I indicated in my April 9 letter to you, Verizon is installing more fiber-fed DLC equipment in its local feeder plant and is considering deployment of DSL capabilities on that architecture in certain locations where it is upgrading existing remote terminals. Verizon could utilize this architecture to offer a wholesale DSL packet transport service to other carriers, as well as to provide retail DSL service to consumers.

To do this, Verizon must procure, install and test advanced services equipment (such as OGDs for our central offices and integrated DSL-capable cards for remote terminals), which could not be done by a Verizon local exchange carrier under the Merger Conditions.³

Verizon has discussed this wholesale DSL packet transport offering with other carriers at a number of industry meetings. One issue of particular concern to many of the carriers is timing — when would Verizon commit to providing the service and how long would it take from that commitment for the service to be widely available. If the separate affiliate requirement is determined to remain in effect until the date by which it automatically terminates, installation of this equipment and the services they can provide will be delayed. Allowing Verizon to install and to begin the testing process would significantly reduce the time it would take Verizon to bring such a service on line.

Third, the separate affiliate requirement is making doing business more complicated for large business customers with sophisticated networks and complicated advanced services needs for products such as ATM and Frame Relay. For customers like this, it is important that Verizon be able to provide an integrated solution over a network that it controls just as our competitors already are able to do.⁴ For instance, large customers want a single point of

² Dowell Dec. ¶¶ 3-7.

³ Merger Conditions § I.3.d.

⁴ It is well recognized that there are pro-competitive benefits to serving customers using a carrier's own integrated facilities. For example, the Commission has cited the enhanced ability of parties to serve "multi-location customers over their own networks," enabling "such customers to receive higher quality and more reliable services." *Application of WorldCom, Inc. and MCI Communications Corp. For Transfer of Control*, 13 FCC Rcd 18025, ¶ 199 (1998). Indeed, competitors have cited these benefits as advantages of their own offerings. In WorldCom's words, "only one company" has a seamless global "wholly owned" network that provides a fully-integrated bundle of services. MCI WorldCom two-page advertisement, Wall St. J., Nov. 5, 1998, at B19-19. Similarly, AT&T touts its data network with its own local ports "all over the world," which is "a big plus in attracting the large corporate customers that are the grand prize for telecommunications companies." Seth Schiesel, *AT&T Buying I.B.M. Network*, N.Y. Times, Dec. 9, 1998 at C1.

contact for all of their voice and data needs. This single point of contact needs the ability to not only take and process orders, but also to process trouble reports, test circuits and answer billing questions. These customer requirements are either prohibited or greatly hampered by the separate affiliate regime, which adds an additional layer of complexity to the already complicated service arrangements that big business customers demand. And it is a layer of complexity that our competitors do not have, since these kinds of complex arrangements for big business customers typically are provided by competitors using their own network facilities.

The fourth reason is that structural separation increases costs. The additional tax burden that results from the structural separation requirement alone amounts to tens of millions of dollars. The reason is that, in several states, Verizon will be unable to take advantage of the losses of its start-up advanced services business when figuring its state income taxes. The maintenance of a separate affiliate adds costs to Verizon's advanced services in other ways as well, as the separate affiliate requirement results in additional unnecessary duplication and expense. Even by a conservative estimate, the structural separation requirement increases tax and operational expense by an estimated \$48 million per year (in addition to literally hundreds of million more in costs that already have been incurred).⁵ These extra tax and operational costs that are either passed on to consumers or siphon away funds that could be used to more broadly and more quickly deploy these services.

Of course, as required by the merger conditions, Verizon advanced services operation would continue to use the same standard wholesale interfaces, processes and procedures that are available to other CLECs.⁶ Therefore, the merger conditions already specify the requirements that apply, and there are no adverse effects of terminating the structural separation requirement now rather than in nine months.

Prompt elimination of the structural separation requirement will, therefore, permit Verizon to bring more services to more consumers more quickly and more economically. Verizon's advanced services operation will use the same ordering interfaces when dealing with its telephone companies as other advanced services providers, so there is no possible anti-competitive effect.

Thank you for your consideration of this matter. If you have any questions, please give me a call.

Very truly yours,

⁵ Dowell Dec. ¶ 8.

⁶ Merger Conditions § 12; Dowell Dec ¶ 9.

Attachments

**cc: Carol Matthey
Michelle Carey
Glenn Reynolds**

DECLARATION OF GEORGE DOWELL

1. My name is George Dowell. I am the Vice President for Strategic Planning and Implementation of Verizon Advanced Data Inc. ("VADI"), Verizon's separate data affiliate. My responsibilities currently include directing the program teams that develop and implement all of the operating support systems, processes, and work centers necessary for VADI to provision and maintain DSL and other advanced services throughout the areas in which Verizon's local telephone operating companies provide local exchange service. I have more than 18 years experience in the telecommunications industry, in a variety of engineering and operations positions working for NYNEX, Bell Atlantic, and now VADI. Prior to assuming my current responsibilities, I was Vice President for Operations Excellence for Bell Atlantic.

2. The purpose of this declaration is to explain that how eliminating the nine-month transition period contained in paragraph 11 of Section I of the Bell Atlantic/GTE merger conditions will benefit consumers. Eliminating this waiting period will allow Verizon to continue to deploy advanced services in New Jersey and will allow Verizon to avoid significant costs caused by the separate affiliate requirement.

3. Continuation of service in New Jersey. The Merger Conditions required that Verizon New Jersey (as well as the other Verizon incumbent local exchange carriers) provide interstate and intrastate advanced data services such as ADSL, ATM and Frame Relay through a structurally separate affiliate on or before December 27, 2000.

4. Verizon New Jersey filed a petition with the New Jersey Board of Public Utilities ("Board") on August 7, 2000 for approval to transfer to VADI assets owned by Verizon New Jersey and used exclusively to provide advanced services. *Verizon New*

Jersey Inc.'s Transfer of Advanced Data Services Assets to Verizon Advanced Data Inc., Docket No. TM00080538 (August 7, 2000). Because this petition had not been approved, Verizon New Jersey filed a petition with the Commission on December 18, 2000, seeking a waiver of the advanced services affiliate requirement pending Board approval of the asset transfer. Pursuant to the Merger Conditions, Verizon is permitted to operate as it had, as if the transition period had not expired.¹ The Commission has not done so to date.

5. Accordingly, at the present time Verizon New Jersey continues to provide advanced services in New Jersey. VADI does not provide any advanced services in New Jersey nor has it filed tariffs for those services. It has no customers in New Jersey.

6. Although Verizon New Jersey continues to offer ADSL and other advanced services in New Jersey, the Merger Conditions bar it from purchasing any new advanced services equipment. Rather, the Merger Conditions state that VADI must own all advanced services equipment purchased after September 27, 2000.²

7. In connection with discussions concerning the pending transfer, Verizon New Jersey has described to VADI capacity problems in the Verizon New Jersey network. In order to continue to meet customer demand throughout New Jersey, Verizon New Jersey needs to obtain additional plug-in cards for central office equipment and other advanced services equipment. Two Verizon New Jersey central offices have run out of capacity already and are now closed to new orders due to unavailability of equipment. If Verizon New Jersey is not allowed to purchase new equipment, it will run out of capacity in more than seventy central offices and will be unable to fill new customer orders for ADSL

¹ Merger Conditions ¶ 1.6(f).

within the next four months. Several of these offices will be out of capacity in the next two weeks. Also, ten central offices will be out of capacity for ATM or frame relay service within three months. ATM service is used for backbone transport of ADSL. Therefore, unless relief is obtained, Verizon New Jersey will soon be forced to stop deploying ADSL in most of the State.

8. Elimination of costs. Accelerating the sunset of the separate affiliate merger conditions also will reduce the added costs that are inherent in separation and ultimately are borne by consumers. At that time, Verizon could share resources between its advanced services and other operations that it currently cannot share. For example, Verizon would not be required to have duplicate engineering personnel or to store customer records on duplicate systems. Rather, it would share these and other resources just as its competitors may do today. Of course, under the terms of the Conditions, Verizon's advanced services unit would still have to submit orders using the same interfaces, processes and procedures as CLECs use, and any additional costs incurred by the need to do so would not be avoided. In addition, in several states, Verizon will be unable to take advantage of the losses of its advanced services affiliate when figuring its state income taxes as it otherwise would be able to do. I estimate that these cost savings would exceed \$48 million annually. Eliminating these costs would give Verizon more flexibility in pricing these competitive services.

9. Ordering processes. As provided for in the merger Conditions, Verizon's advanced services business would continue to use the wholesale ordering process for line sharing and other components of advanced services even after the end of the separate

² *Id.* ¶ 1.3(d).

affiliate requirement. For example, when VADI receives an order today, it uses the CORBA interface (one of the pre-ordering interfaces Verizon offers to all CLECs) to obtain pre-ordering information. VADI has elected to obtain a limited extract file of the loop qualification data for working telephone numbers from the LiveWire database that Verizon has made available to CLECs. VADI downloads a copy of the loop extract file electronically from the Verizon local telephone operating companies in the same manner as the file is made available to CLECs. This extract is currently provided in the former Bell Atlantic serving territories and will be available in the former GTE serving territories effective May 15, 2001. Once VADI determines that an end user's loop is qualified for DSL service, its employees and sales agents enter the ordering information into VADI's internal ordering system. VADI then submits the wholesale orders to the Verizon local telephone operating companies using the same interfaces as are available to other CLECs. VADI submits its orders to the Verizon local telephone operating companies over the EDI interface, although at times it uses the Web GUI interface. Both the EDI and Web GUI interfaces are available to all CLECs. After VADI submits the order to the ILEC, VADI will receive a firm order confirmation or a reject from the Verizon local telephone operating companies through these same interfaces. Likewise, once the separate affiliate requirement terminates, Verizon's advanced services business will continue to use the interfaces and processes available to CLECs as required by the terms of the Merger Condition.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April __, 2001

George Dowell

**Before the
Federal Communications Commission
Washington, D.C. 20554**

**In the Matter of
Petition of AT&T Communications
of Virginia, Inc., Pursuant
to Section 252(e)(5) of the
Communications Act, for Preemption
of the Jurisdiction of the Virginia
State Corporation Commission
Regarding Interconnection Disputes
with Verizon-Virginia, Inc.**

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CC Docket No. 00-251

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of June, 2001, a copy of AT&T's Motion to Dismiss Verizon Virginia's Objections to AT&T's First Set of Data Requests and to Compel Answers was sent via overnight delivery and emailed to:

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Stephanie A. Baldanzi